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COUNTY OF CONTRA COSTA

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

DAVID COOK,

Plaintiff,

v.

COUNTY OF CONTRA COSTA;
Contra Costa County Sheriff DAVID
O'LIVINGSTON; Contra Costa County
Assistant Sheriff MATTHEW
SCHULER; West County Detention
Facility Commander LT. CRAIG
BROOKS; West County Detention
Facility Nursing Director ELENA
O'MARY; Chief Medical Officer of
Contra Costa Regional Medical Center
and West County Detention Facility
Medical Director DAVID GOLDSTEIN,
and DOES I to XXX, inclusive,

Defendants.

No. C15-05099 TEH

DEFENDANT COUNTY OF CONTRA
COSTA'S REQUEST FOR JUDICIAL
NOTICE IN SUPPORT OF MOTION TO
DISMISS ALL CLAIMS IN PLAINTIFF'S
SECOND AMENDED COMPLAINT

[Fed. R. Evid. 201]

Date: March 7, 2016
Time: 10:00 a.m.
Crtrm: 2, 17th Floor
Judge: Hon. Thelton E. Henderson, Presiding

Date Action Filed: May 5, 2015
Trial Date: None Assigned

Defendant COUNTY OF CONTRA COSTA hereby requests that this Court take
judicial notice of the following document and facts that meet the requirements of Rule 201 of
the Federal Rules of Evidence:

1. Document: Government tort claim of Plaintiff David Cook relating to the
September 26, 2014 incident at West County Detention Facility, which is the subject of his

complaint in the above-entitled action. Filed on September 29, 2014, and rejected in full on November 4, 2014. Source document: Government tort claim of David Cook (*See* Declaration of Stacey M. Boyd in support of Request for Judicial Notice, ¶ 4, Exh. A).

2. Facts: Government tort claim of Plaintiff David Cook relating to the September 26, 2014 incident at West County Detention Facility, which is the subject of his complaint in the above-entitled action, relates to a personal injury claim for a slip and fall on stairs, and does not include any facts relating to a failure to summon medical care or medical malpractice claim against the County of Contra Costa or its employees. Source document: Government tort claim of David Cook (*See* Declaration of Stacey M. Boyd in support of Request for Judicial Notice, Exh. A).

For the Court's convenience and ease of reference, a true and correct copy of the above-described Government tort claim is attached as **Exhibit A** to the Declaration of Stacey M. Boyd, filed herewith in Support of Defendant's Request for Judicial Notice.

Courts may take judicial notice of a fact not subject to reasonable dispute in that it is either (1) generally known within the territorial jurisdiction of the trial court or (2) capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned. Fed. R. Evid. 201(b). Public records are appropriate matters for judicial notice. *MGIC Indem. Corp. v. Weisman*, 803 F.2d 500, 504 (9th Cir. 1986) (courts may take judicial notice of matters of public record outside the pleadings). And courts may take judicial notice of matters of public record without converting a Rule 12(b)(6) motion to a summary judgment motion. *Mack v. S. Bay Beer Distributors*, 798 F.2d 1279, 1282 (9th Cir. 1986), *abrogated on other grounds by Astoria Fed. Sav. & Loan Ass'n v. Solimino*, 501 U.S. 104 (1991).

Similarly, under California law, matters subject to judicial notice may include official acts of the county. Evid. Code, § 452, subds. (c), (d). Judicial notice of records of the Clerk of the Board of Supervisors is appropriate under Evidence Code section 452, subdivision (c), "authorizing notice of 'official acts of the legislative, executive, and judicial departments of the United States and of any state of the United States.'" *Washington v. County of Contra Costa*, 38 Cal. App. 4th 890, 900 (1995).

1 DATED: January 22, 2016

SHARON L. ANDERSON, County Counsel

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3 By: /s/
4 NIMA E. SOHI
5 Deputy County Counsel
6 Attorneys for Defendant
7 COUNTY OF CONTRA COSTA
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